

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

**NATIONAL ORGANIZATION FOR )  
MARRIAGE AND AMERICAN )  
PRINCIPLES IN ACTION, )**

**PLAINTIFFS )**

**v. )**

**CIVIL No. 09-538-B-H**

**WALTER F. McKEE, in his official )  
capacity as member of the )  
Commission on Government Ethics )  
and Election Practices, ET AL., )**

**DEFENDANTS )**

**ORDER ON PLAINTIFFS' MOTIONS**

The plaintiffs' objections to the Magistrate Judge's Report of Hearing and Order on Discovery Dispute and Scheduling are **OVERRULED**. Judge Rich's decisions are neither clearly erroneous nor contrary to law, the standard of review for such rulings. See Fed. R. Civ. P. 72(a). The plaintiffs assert that the rulings have dispositive effect, Pls.' Objections to Report of Hr'g & Order Re: Disc. Dipute & Sched. 2 (Docket Item 43), but they do not, particularly in light of the Consent Confidentiality Order entered February 16, 2010 (Docket Item 49). I do not consider the new affidavits the plaintiffs have provided as exhibits to their Objections. To the extent they are relevant, the affidavits should have been presented to the Magistrate Judge. See Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co., 840 F.2d 985, 990-91 (1st Cir. 1988) ("We hold

categorically that an unsuccessful party is not entitled as of right to de novo review by the judge of an argument never seasonably raised before the magistrate.” (citation omitted)). For me to consider them now would make his efforts pointless.

The plaintiffs’ motion to stay discovery pending resolution of facial challenges is **DENIED**. There is no reason to bifurcate the case in that manner, and it would not contribute to judicial economy.

**SO ORDERED.**

**DATED THIS 17TH DAY OF FEBRUARY, 2010**

/s/D. BROCK HORNBY

**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**